

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.SURENDRA MOHAN

&

THE HONOURABLE MRS.JUSTICE MARY JOSEPH

FRIDAY, THE 19TH DAY OF JUNE 2015/29TH JYAISHTA, 1937

OP (RC) .No. 76 of 2015 (O)

PETITIONER(S) :

CORPORATION BANK
T.o.25/298, GOVERNMENT PRESS ROAD,
THIRUVANANTHAPURAM, PIN - 695 001
REPRESENTED BY ITS CHIEF MANAGER

BY ADVS.SRI.S.B.PREMACHANDRA PRABHU
SRI.G.SREENIVASA PRABHU

RESPONDENT(S) :

L.PREMELA GOPALAKRISHNAN
T.C.No.9/231, "SUPREME", KOWDIAR P.O,
THIRUVANANTHAPURAM - 695 003

THIS OP (RENT CONTROL) HAVING COME UP FOR ADMISSION ON
19-06-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

OP (RC).No. 76 of 2015 (O)

APPENDIX

PETITIONER(S) ' EXHIBITS

EXT.P1: TRUE COPY OF ORDER IN R.C.P 74/2011 DATED 31/7/2013

EXT.P2: TRUE COPY OF THE JUDGMENT IN R.C.A 10/2014 DATED 30/6/2014

EXT.P3: TRUE COPY OF THE I.A No.3607/2014

EXT.P4: TRUE COPY OF COUNTER AFFIDAVIT FILED BY THE RESPONDENT

EXT.P5: TRUE COPY OF THE ORDER IN I.A No.3607/2014 DATED 20/5/2015

EXT.P6: TRUE FOPY OF OFFER SUBMITTED BY the RESPONDENT DATED 31/7/2014

EXT.P7: TRUE COPY OF I.A No.1177/2015 FILED BY THE PETITIONER BEFORE
APPELLATE AUTHORITY

EXT.P8: TRUE COPY OF THE EXECUTION PETITION No.222/2015 FILED BY THE
RESPONDENT.

EXT.P9: TRUE COPY OF OBJECTION FILED BY THE PETITIONER IN E.P

RESPONDENT(S) ' EXHIBITS

NIL

//TRUE COPY//

P.A TO JUDGE

vdv

K.SURENDRA MOHAN & MARY JOSEPH, JJ.

=====

O.P (R.C) No.76 of 2015

=====

Dated this the 19th day of June, 2015

JUDGMENT

Surendra Mohan,J.

The petitioner herein is a nationalised bank in occupation of rented premises owned by the respondent. The respondent/landlord had filed R.C.P No.74 of 2011 seeking an order of eviction on the ground of bona fide own occupation. The Rent Control Court allowed the petition and granted eviction. In appeal, the petitioner sought for the grant of some time to surrender vacant possession of the premises. Accordingly, the Appellate Court granted time up to 31.12.2014 to the petitioner, to vacate the premises. The petitioner also filed an affidavit undertaking to vacate the premises on or before 31.12.2014. According to the petitioner, though they had made earnest efforts to adhere to the time limit and to vacate the premises before the deadline, they were not able to do so. They had therefore filed a petition, I.A No.3607 of 2014 before the Appellate Authority in

R.C.A No.10 of 2014. In the said petition, they had sought time up to 30.04.2015 to vacate the premises. No orders were passed on the said Interlocutory Application and the matter dragged on. Finally, as per Ext.P5 order dated 20.05.2015, the Rent Control Appellate Authority noted that the petitioner had not surrendered vacant possession of the premises even on the said date and, dismissed the petition for extension of time as infructuous. Immediately thereupon, the petitioner filed another application, I.A No.1177 of 2015 dated 19.05.2015 for further extension of time before the Appellate Authority. A copy of the said application is Ext.P7. According to the counsel for the petitioner, the said petition is posted for objections and hearing to 26.06.2015.

2. In the meanwhile, the respondent had filed E.P No.222 of 2015 for executing the order of eviction. On 09.06.2015, though the petitioner had filed objections, the objections were rejected and delivery was ordered. As per the order of the execution court, the property is to be delivered on 19.06.2015, today, and the matter has been posted for report to 22.06.2015. The petitioner seeks the grant of some more time.

3. The contention of Sri.S.B.Premachandra Prabhu, learned counsel for the petitioner, is that, the petitioner had specifically stated in the objections that an application for extension of time was pending before the Appellate Authority and that the same was posted to 22.06.2015. However, without waiting for the outcome of the said petition, delivery has been ordered. It is also submitted that, the Bank had made earnest efforts to surrender vacant possession of the premises, but was not able to do so, due to circumstances beyond their control.

4. Heard. This petition is posted before us for admission. We notice that, the petitioner, a responsible nationalised bank, had undertaken before the court that they would surrender vacant possession of the tenanted premises, on or before 31.12.2014. Having undertaken to surrender vacant possession on or before the said date, it was obligatory on the part of the petitioner to have complied with the said undertaking. We notice that, almost six months have elapsed thereafter. The petitioner is still seeking further time. The above attitude on the part of a responsible organisation

manned by competent officers is, to say the least, unacceptable. On facts, we notice that the petitioner had initially sought for an extension of time up to 31.04.2015. They have obtained the time by default, since the application had remained pending all the time. The execution petition was filed by the respondent only much later, on 23.05.2015. On 09.06.2015 itself the petitioner has filed Ext.P9 objection. It is stated therein that, I.A No.1177 of 2015 has been posted to 26.06.2015 for objections and hearing. Since the question as to whether a further extension of time should be granted to the petitioner or not, is pending consideration of the Appellate Authority, we are of the view that it is necessary to adjourn the delivery till the Appellate Authority considers the application filed by the petitioner. We notice that the said application was filed before the Execution Petition was filed by the respondent. For the above purpose, we grant a limited adjournment of the delivery that is ordered to be conducted today.

This Original Petition is accordingly disposed of with the following directions:

- i) The delivery that is ordered to be conducted on 19.06.2015 shall stand adjourned to 29.06.2015 with a direction to report on 01.07.2015.
- ii) The Rent Control Appellate Authority, Thiruvananthapuram is directed to take up I.A No.1177 of 2015 on 26.06.2015 and to pass final orders thereon, on the same day itself.
- iii) If the Appellate Authority decides to grant the extension of time that has been sought for by the petitioner in I.A No.1177 of 2015, the execution court shall abide by the said direction. Otherwise, the delivery shall be effected as ordered above.

Sd/-
K.SURENDRA MOHAN, JUDGE

Sd/-
MARY JOSEPH, JUDGE

v dv